

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIBEL BAEZ; FELIPA CRUZ; RD., ON BEHALF OF :
HER MINOR CHILD, A.S.; on their own behalf and :
on behalf of all others similarly situated; :
UPPER MANHATTAN TOGETHER, INC.; and :
SOUTH BRONX CHURCHES SPONSORING :
COMMITTEE, INC., :

Plaintiffs, :

vs. :

NEW YORK CITY HOUSING AUTHORITY, :

Defendant. :

13 Civ. 8916 (WHP)

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DECLARATION OF ALISHA P. IN SUPPORT OF
PLAINTIFFS' MOTION TO ENFORCE STIPULATION AND ORDER

I, ALISHA P., declare under penalty of perjury that the following is true and correct:

1. I make this declaration in support of Plaintiffs' motion to enforce the stipulation and order this Court approved on April 17, 2014.

2. I live in New York City Housing Authority ("NYCHA") housing in Manhattan. I am a tenant at 430 East 105th Street, Apartment 5D, New York, New York 10029.

3. I have lived at 430 East 105th Street, Apartment 5D since 1998. My three sons live with me in the apartment.

4. I am thirty-eight years old, and I was diagnosed with asthma as a child.

5. My five-year-old son, fifteen-year-old son, and twenty-one-year-old son who live with me also suffer from asthma. My three sons were treated for asthma by Dr. Katikaneni Rao at the Boriken Neighborhood Health Center until he recently retired. Since then, my two older

sons have been treated at the same office by Dr. Rajiv Agashiwala. The phone number for the Boriken Neighborhood Health Center is (212) 289-6650.

6. Since 2007, I have dealt with issues of mold in the apartment. Mold is growing in the bathroom on the ceiling, toilet, sink, and bathtub. The mold and excessive moisture in my bathroom has caused large black stains and the cracking, crumbling, and peeling of paint on my bathroom ceiling and walls. Photographs of the mold and excessive moisture problems in my apartment are attached to this declaration as Exhibit 1.

7. The mold makes the bathroom smell bad, and we often have to avoid that area of the apartment. Sometimes the bathroom ceiling and walls sweat when the shower is in use even when the window is open. The bathroom also has a roach and spider infestation.

8. I have complained to NYCHA about the mold on a periodic basis since 2007. Because I did not succeed in getting NYCHA to make repairs by complaining to them directly, I began withholding rent. I have since appeared *pro se* in New York City Housing Court on multiple occasions to get orders against NYCHA for its failure to make repairs in my apartment.

9. In 2009, a Housing Court judge ordered NYCHA to make repairs in my apartment to fix the mold and excessive moisture. I had to go to Housing Court several times to enforce the judge's order because NYCHA failed to complete the required work in my apartment. The repairs were finally completed in October 2009.

10. However, the mold returned by 2012. I started making calls to NYCHA about the problem in 2013. Specifically, between May and September 2014, I made four maintenance calls to NYCHA for mold and moisture-related repairs. I called on May 14, 2014 and received work order ticket number 31894335. I called again on August 13, 2014 and received work order ticket number 32777996. I called a third time on August 25, 2014 and received work order ticket

number 32888915. I called a fourth time on September 25, 2014 and received work order ticket number 33255395.

11. Despite the obvious presence of mold in the bathroom, NYCHA employees did not clean or make any other mold-related repairs in my apartment in response to work order ticket numbers 31894335 and 32777996.

12. A NYCHA employee came to my apartment on August 29, 2014 to clean, scrape, plaster, and paint the bathroom ceiling. The employee also re-caulked the edges of the shower, but did not replace the moldy shower panel. The NYCHA employee did not enclose the bathroom while making the repairs to prevent mold spores from spreading to other places. The cleaning products have a strong, offensive odor that we could smell throughout the entire apartment. The smell was so bad that we had to open all of the windows and the front door to air the apartment out. The work order ticket number associated with this NYCHA visit is 32888915. Soon after the August 29, 2014 repairs were made, the mold came back.

13. On September 4, 2014, a NYCHA employee was sent to my apartment to clean the mold on the bathroom ceiling even though a NYCHA employee had just come to clean, scrape, plaster, and paint on August 29, 2014. I refused to let the employee into my apartment because I did not want my children exposed to NYCHA's cleaning products for the second time in one week. At the time, I had a one-year old foster child living with me in the apartment and I was afraid the products would exacerbate her upper respiratory problems and my two older children's asthma. The employee asked me to sign a work order ticket to indicate that the work had been completed even though nothing was done. I agreed so that this particular work order would be closed out. As it was, it didn't seem like NYCHA was going to do anything different from their last, unsuccessful visit.

14. On September 14, 2014, my five-year-old son started wheezing, so I took him to the emergency room at Mount Sinai Hospital. The doctor admitted him to the intensive care unit (ICU) for two days and he was diagnosed with asthma on this date. I believe that the mold in my apartment and the constant exposure to strong cleaning products may have contributed to my son's asthma diagnosis because he was not diagnosed with asthma early in life like my other two sons.

15. On October 17, 2014, I went to Housing Court again and told the judge about the problems in my apartment that NYCHA had not fixed. The judge ordered NYCHA to complete all mold repairs in my apartment within 30 days. I also asked the judge to send a court inspector to my apartment to look at the mold and other problems in the apartment that NYCHA still had not fixed. This was also the date that an appointment had been scheduled for work order ticket number 33255395, which I had received on September 25, 2014. However, when I returned from court there was no note indicating that anyone from NYCHA had come to fix the mold. Later in the afternoon, a NYCHA employee did come to fix the wall light in my dining room, but he did not go into the bathroom at any point and the work order ticket he was responding to only applied to the wall light. That same day, I called NYCHA to report the mold and moisture issues in the bathroom again. I wanted to be certain that NYCHA was aware that I was still having mold and moisture problems because I knew NYCHA had closed out my previous work order ticket for mold repairs.

16. A court inspector visited my apartment on October 29, 2014. The inspector looked at the problems I had reported and noted some additional problems that needed to be fixed.

17. On December 1, 2014, a NYCHA inspector visited my apartment for an annual inspection and told me that an appointment would be scheduled to fix the mold and mildew problem four weeks later, on December 31, 2014. The work order ticket number for this appointment is 34290695.

18. On December 17, 2014, I returned to Housing Court to address the various problems with my apartment, including the fact that NYCHA had not completed the repairs ordered by the Housing Court on October 17, 2014. This time, the judge ordered NYCHA to complete all mold remediation in my bathroom by December 26, 2014. After I returned from court that day, a NYCHA employee came to my apartment to wash the walls and the ceiling, but he was not there to clean behind the shower panel or make any more extensive repairs. Because I knew the required repairs would not be made and because I did not want to expose my children to the strong cleaning products again, I did not let the employee wash the ceiling and walls.

19. On December 24, 2014, a NYCHA employee visited my apartment to clean the mold by washing the walls with a scrub brush, but he told me that he did not have the proper tools to scrape the mold or perform more extensive repairs. The NYCHA employee did not enclose the bathroom while he washed off the mold. The superintendent of my housing development also came to my apartment that day and told me that another NYCHA employee would return to remove the shower panel, clean, and replace the old shower panel with a new one. But a NYCHA employee never came to replace the old shower panel.

20. On January 29, 2015, the new superintendent of my housing development visited my apartment unannounced to inspect the mold conditions in my apartment. She asked where the leaks in my bathroom were coming from, and I told her that water leaked from the pipe above the toilet and the pipe above the shower. She told me that NYCHA would have to remove

and change both pipes. She also said that they would have to replace the shower panel and break through the walls to find the source of the mold problem and that she would send a NYCHA employee on February 2, 2015 to break into the wall.

21. No one came to my apartment on February 2, 2015 to make any repairs. Another superintendent for my housing development came on this date to look at my bathroom and told me that the mold on my shower panel was actually dirt, so the shower panel did not have to be replaced to fix the problem. He also noted that there were no visible leaks in the ceiling, so the mold must be growing there not because of leaks, but because the bathroom is so warm. He said he would have a contractor come and clean the shower panel properly and send another NYCHA employee to wash the walls again. This was very frustrating to me because I know from experience that cleaning the walls will not fix mold problems and that the shower panel has to be removed to get to the underlying source of the mold.

22. On February 3, 2015, I went back to Housing Court to address the problems in my apartment. This time, my case was assigned to a different judge who agreed with the NYCHA housing assistant to adjourn the case until March 4, 2015. The housing assistant requested the adjournment because she was not prepared for court that day—she did not have the work order tickets in front of her or the dates on which NYCHA employees were scheduled to make repairs in my bathroom and other areas of the apartment. The housing assistant said that part of the reason she was unprepared was because the superintendent for my housing development was making separate arrangements to have the repairs done. I agreed to the adjournment so that NYCHA would make the necessary repairs. The judge told me that if the mold and other problems in my apartment were not fixed by the time I returned to Housing Court on March 4, 2015, I should let the judge know on that date.

23. Nobody from NYCHA came to my apartment by March 4, 2015 to make the required repairs. When I went back to Housing Court on March 4, 2015, I told the judge that NYCHA had not yet made the repairs. On this date, the judge ordered NYCHA to abate the mold and moisture problem in my apartment by March 16, 2015.

24. A NYCHA employee came to my apartment on March 6, 2015 to clean the mold, but he did not make any repairs to abate the underlying mold and moisture problem as NYCHA had been previously ordered to do on multiple occasions. The superintendent for my housing development came on that date as well and told me that someone would have to keep coming back to wash the walls and the ceilings to address the issue. Once again, I asked if someone could come to replace the shower panel, but she said that all she could do was send a contractor to clean the shower panel.

25. A contractor eventually came to my apartment on March 19, 2015—three days after the judge's deadline for NYCHA to complete repairs—to clean the shower panel and bathtub. The contractor used a razor and a brush to scrape the mold from the shower panel. But he did not replace the shower panel on this visit.

26. On March 31, 2015, I filed another petition with the Housing Court for NYCHA's failure to remediate mold and moisture-related problems, among other violations. Once again, a court inspector was assigned to come inspect the conditions in my apartment on April 7, 2015 and I was given a hearing date of April 29, 2015.

27. My five-year-old son and my fifteen-year-old son both had serious asthma attacks during the first week of April 2015.

28. At the time of this declaration, NYCHA has not returned to my apartment to replace the shower panel or address the underlying source of the mold problem in my apartment.

29. Instead of addressing the source of excessive moisture causing the mold in my bathroom, NYCHA has only cleaned, painted, scraped, or plastered over the areas where the mold grows. Worse, NYCHA constantly delays in making repairs to my apartment. Even going to Housing Court did not succeed in getting NYCHA to make the necessary repairs in a timely fashion.

April 16, 2015
Date

Alisha P.
Alisha P.